IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR BENCH
S.B. Civil Writ Petition No.95/07
Sohan Lal Vs. Nand Lal & Anr.

17.04.2007

***Hon'ble Mr. Justice Mohammad Rafiq***

Shri C.M. Verma for petitioner.

Heard learned counsel for the petitioner.

The petitioner has filed this writ petition against the order dated 23.11.06 whereby his application filed under Order 14 Rule 5 CPC during the pendency of the appeal before the Additional District Judge No.2, Jaipur District, Jaipur for framing of two additional issues with regard to pattas issued by the Gram Panchayat respectively on 4.1.75 and 24.2.98 was rejected. The issues that were sought to be framed were to the effect whether the pattas issued on the aforesaid dates by the Gram Panchayat were forged. The learned

Additional Sessions Judge rejected the application of the petitioner on the premise that the suit had already been decided and the matter was at the stage of appeal and there was no pleading in the plaint filed by the plaintiff appellant that the aforesaid pattas were forged. During the course of arguments, the learned counsel for the petitioner submitted that the pattas in the same land has also been issued by the Tehsildar and therefore with regard to the same land, the Gram Panchayat could not issue the pattas again. Though the pleadings are to the effect that Gram Panchayat had no authority to issue pattas but it should be appreciated that the competence of the Gram Panchayat to issue patta is one question but to say that pattas were forged by the Gram Panchayat or by any one else in the name of the Gram Panchayat is an altogether different issue. No such issue could be allowed to be framed at the stage of the appeal when already suit had been decided.

Framing of issue at this stage would have necessitated remand of the matter to the trial court requiring the parties again to lead evidence. There was no such extraordinary reason for accepting the prayer of the petitioner at the appellate stage.

I therefore do not find that the learned Court has committed any error of law in rejecting the application of the petitioner.

The writ petition is accordingly dismissed.

**(Mohammad Rafiq),J.**

**Rs/-**